

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**FLEX-ING, LTD d/b/a FLEX-ING,**

**Plaintiff,**

**V.**

**PARKER-HANNIFIN, CO., DAYCO  
PRODUCTS, LLC, DAYCO  
PRODUCTS, INC., and MARK IV  
INDUSTRIES, INC.,**

**Defendants.**

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**Cause No. 4:04 cv 238**

**(Judge Schell)**

**AGREED MOTION TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, FLEX-ING, LTD, d/b/a FLEX-ING, (Flex-ing) Plaintiff in the above-entitled action, and pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and files this Agreed Motion to Dismiss and this proposed Order and for cause would show:

**I. Introduction**

Plaintiff in this action is Flex-ing. On or about the 8<sup>th</sup> day of July, 2004, Plaintiff sued Defendants Parker-Hannifin Co., Mark IV Industries, Inc., Dayco Products LLC., and Dayco Products, Inc. (“Defendants”) in this Court alleging various violations of federal law.

**II. Grounds for Dismissal**

All of the Defendants have been served with process and have appeared in this matter. Currently, the only motion pending in this matter is Defendant Mark IV Industries’ Motion to Dismiss for Lack of Personal Jurisdiction.

Flex-ing’s claims were not filed as a class action. No receiver has been appointed in this action. Moreover, this case does not involve a federal statute requiring the Court to dismiss the

action, once filed. Finally, the parties have not dismissed an action against each other based on or including the same claims as those presented in this suit.

### **III. Prayer**

Upon consideration of the foregoing, the parties respectfully withdraw all pending motions and pray that the Court grant the dismissal of this matter.

Respectfully Submitted,

/s/ Reginald B. Smith, Jr.  
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AGREED BY:

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Attorney for Defendant Dayco Products, Inc.,  
Dayco Products LLC, & Mark IV Industries, Inc.

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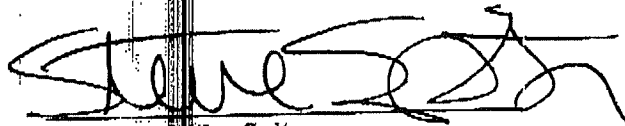
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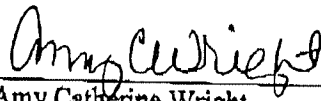
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**CERTIFICATE OF SERVICE**

This is to certify that on the 28<sup>th</sup> of January, 2005, I served the foregoing document on opposing counsel by electronic means or by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon as follows:

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/s/ Reginald B. Smith, Jr.  
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